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REMARKS

Applicants respectfully request reconsideration of this Patent Application, particularly in view of the above Amendment and the following remarks. No additional claim fee is required for this Amendment as the number of independent claims has been reduced, and the total number of claims has been reduced.

A Petition for a three-month extension of time is enclosed. If any further fee, or any deficiency or overage in the enclosed Petition Fee, is required or determined, please charge or credit Deposit Account No. 19-3550.

Request for Telephone Interview

Applicants kindly request the Examiner to contact the undersigned at (847) 490-1400 to schedule a telephone interview, to discuss the merits of this Patent Application.

Amendment to the Claims

Claim 1 has been amended to clarify that the curved surfaces of the first component and the second component and the intermediate component allow articulation and lateral translation to take place in mutually orthogonal directions therebetween. Support for this Amendment can be found at, for example, Claims 19

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and 29, now canceled, and at page 9, last paragraph, of the Specification. Claim 1 has further been amended to recite a projection and a recess, where the projection is disposed within the recess to limit the articulation and translation which can take place between the intermediate component and one of the first or second components and to prevent the intermediate component from separating laterally from the one of the first or second components. Support for this Amendment can be found, for example, in the figures and at page 3, first and second paragraphs.

Claims 18 and 27 have been amended to change claim dependency, and Claims 24, 26, and 27 have been amended in view of amended Claim 15.

Claims 29-34 have been canceled without prejudice.

New dependent Claim 35 finds support in the figures, for example, Figs. 7-19.

New independent Claim 36 has been added, and finds support in Claim 1 and the passages discussed above for amended Claim 1. The limitations in Claim 36 regarding the interengaging formations finds support in the central projection/central opening and laterally outwardly facing projection/laterally inward facing recess discussed, for example, at page 3, first and second paragraphs of the Specification.

No new matter has been added to the claims by this Amendment.

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Claim Rejections - 35 U.S.C. §102

The rejection of Claims 15, 16, 19, 21, 22, 26, and 29-32 under 35 U.S.C. §102(b) as anticipated by Laure, U.S. Patent 4,040,130, is respectfully traversed.

The Laure Patent does not teach or suggest each and every limitation of amended independent Claim 15. The Laure Patent does not teach or suggest articulation and lateral translation in mutually orthogonal directions between the components and the intermediate component.

In the device of the Laure Patent, articulation can take place between wrist member 1 and intermediate member 2 in one plane only. Similarly, articulation between intermediate member 2 and ball 16 can only take place in one other plane at a right angle to the first plane (col. 2, lines 28-34 and Figs. 3-8). In Applicant's invention of amended Claim 15, articulation between the first component and the intermediate component, as well as between the second component and the intermediate component, can occur in mutually orthogonal planes.

As also recited in amended Claim 15, lateral translation is also permitted at both sides of the intermediate component. The ability of the respective longitudinal axes of the posts 18 and 30 of the components to translate laterally relative to one another allows a surgeon to accommodate possible lateral misalignment of the bones

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during a surgical implantation procedure. The laxity which is permitted by the facility for articulation and lateral translation also relieves strain on the ligamentous structures associated with the MTP, MCP, and PIP joints. The Laure Patent does not provide any facility for lateral translation. A surgeon implanting the device of the Laure Patent would have increased difficulty accommodating lateral misalignment of the relevant bones. The Laure Patent is clearly content with simple spherical ball and socket type cooperation between the components of the device.

In view of the above Amendment and remarks, Applicant respectfully asserts that the Laure Patent does not anticipate Claim 15, or any claim depending therefrom.

The above comments regarding Claim 15 are also appropriate to new Claim 36. Regarding new Claim 35, the Laure Patent teaches both sides of the intermediate member 2 having a guide and slot combination.

Favorable reconsideration and withdrawal of this rejection are respectfully traversed.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 17, 18, 20, 24, 25, 28, and 30-32 under 35 U.S.C. §103(a) as being unpatentable over Laure, U.S. Patent 4,040,130, is

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respectfully traversed. Claims 30-32 have been canceled. Claims 17, 18, 20, 24, 25, 28 depend from Claim 15, and are thus patentable for at least the same reasons discussed above.

Regarding the comments in paragraph 6 of the Office Action, Applicant fails to appreciate how the Examiner's alleged benefits are provided by the proposed modification. Applicant disagrees that different radii will, as suggested in the Office Action, provide a shortened prosthesis and reduce the amount of material needed for fabrication of the implant. The Specification at page 9, last paragraph through page 10, second full paragraph, explains Applicant's reason for the different radii of curvature.

Favorable reconsideration and withdrawal of this rejection are respectfully traversed.

Claim Rejections - 35 U.S.C. §103

The rejection of Claims 27, 33, and 34 under 35 U.S.C. §103(a) as being unpatentable over Laure, U.S. Patent 4,040,130, in view of Ostiguy, Jr. et al., U.S. Patent 6,152,961, is respectfully traversed. Claims 33 and 34 have been canceled. Claim 27 depends from Claim 15, and is thus patentable for at least the same reasons

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discussed above. The Ostiguy, Jr. et al. Patent does not reasonably provide the deficiencies discussed above.

The Ostiguy, Jr. et al. Patent

The Ostiguy, Jr. et al. Patent does not appear on form PTO-892. Applicant requests that the Examiner make sure this reference is formally made of record to ensure that it is printed on the issued patent.

Conclusion

Applicant intends to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicant has not addressed or resolved in this response, the undersigned attorney again requests a telephone interview with the Examiner.

Applicant sincerely believes that this Patent Application is now in condition for allowance and, thus, respectfully requests early allowance.

Respectfully submitted,



Mark D. Swanson
Regis. No. 48,498

Pauley Petersen & Erickson
2800 West Higgins Road, Suite 365
Hoffman Estates, Illinois 60169
(847) 490-1400 FAX (847) 490-1403